

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	ORDER
Plaintiff,)	
)	
vs.)	
)	Case No. 1:08-cr-026
Michael L. Fisher, Amiel Schaff,)	
Fisher Sand and Gravel Co., Inc.,)	
and Clyde Frank,)	
)	
Defendants.)	

A jury trial for defendants Michael L. Fisher and Clyde Frank is scheduled to begin on June 1, 2009. On Tuesday, May 5, 2009, the Court conducted a telephone conference with the parties, during which jury selection and peremptory challenges were discussed. Under Rule 24(b)(2) of the Federal Rules of Criminal Procedure, in a felony case the Government receives six (6) peremptory challenges and the defendant or defendants jointly receive ten (10) peremptory challenges “when the defendant is charged with a crime punishable by imprisonment of more than one year.” The Court “may allow additional peremptory challenges to multiple defendants, and may allow the defendants to exercise those challenges separately or jointly.” Fed. R. Crim. P. 24(b).

Additionally, under Rule 24(c)(1) of the Federal Rules of Criminal Procedure, the Court “may impanel up to 6 alternate jurors to replace any jurors who are unable to perform or who are disqualified from performing their duties.” “One additional peremptory challenge is permitted [for each side] when one or two alternates are impaneled.” Fed. R. Crim. P. 24(c)(4)(A).

The Court will impanel two alternate jurors. Therefore, the Government will receive six (6) peremptory challenges in accordance with Rule 24(b)(2) plus one (1) additional peremptory challenge in accordance with Rule 24(c)(4)(A) because of the impanelment of two alternate jurors,

for a total of seven (7) peremptory challenges. In accordance with Rule 24(b), the Defendants will receive thirteen (13) peremptory challenges to be exercised “separately or jointly” plus one (1) additional peremptory challenge because of the impanelment of two alternate jurors, for a total of fourteen (14) peremptory challenges. The parties are in agreement as to the number of peremptory challenges for each side.

IT IS SO ORDERED.

Dated this 12th day of May, 2009.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court